

## Article - Tax - General

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§10–726.

(a) (1) In this section the following words have the meanings indicated.

(2) “Cellulosic ethanol technology” means technology that is used to develop cellulosic biomass for conversion to ethanol fuel.

(3) “Department” means the Department of Commerce.

(4) “Qualified research and development expenses” means expenses paid or incurred for cellulosic ethanol technology research and development that is conducted in the State.

(b) Subject to the limitations of this section, an individual or corporation may claim a credit against the State income tax in an amount equal to 10% of the qualified research and development expenses paid or incurred by the individual or corporation during the taxable year.

(c) (1) By September 15 of the calendar year following the end of the taxable year in which the qualified research and development expenses were paid or incurred, an individual or corporation shall submit an application to the Department for the credit allowed under this section.

(2) (i) The total amount of credits approved by the Department under this section may not exceed \$250,000 for any calendar year.

(ii) If the total amount of credits applied for by all individuals and corporations under this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants in the calendar year.

(3) By December 15 of the calendar year following the end of the taxable year in which the qualified research and development expenses were paid or

incurred, the Department shall certify to the individual or corporation the amount of the research and development tax credit approved by the Department for the individual or corporation under this section.

(4) To claim the approved credit allowed under this section, an individual or corporation shall:

(i) file an amended income tax return for the taxable year in which the qualified research and development expenses were paid or incurred; and

(ii) attach a copy of the Department's certification of the approved credit amount to the amended income tax return.

(d) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, an individual or corporation may apply the excess as a credit against the State income tax for succeeding taxable years until the earlier of:

(1) the full amount of the excess is used; or

(2) the expiration of the 15th taxable year after the taxable year in which the qualified research and development expenses were paid or incurred.

(e) (1) In determining the amount of the credit under this section:

(i) all members of the same controlled group of corporations, as defined under § 41(f) of the Internal Revenue Code, shall be treated as a single taxpayer; and

(ii) the credit allowable by this section to each member shall be its proportionate share of the qualified research and development expenses giving rise to the credit.

(2) The Comptroller shall adopt regulations providing for:

(i) determination of the amount of the credit under this section in the case of trades or businesses, whether or not incorporated, that are under common control;

(ii) pass-through and allocation of the credit in the case of estates and trusts, partnerships, unincorporated trades or businesses, and S corporations;

(iii) adjustments in the case of acquisitions and dispositions described in § 41(f)(3) of the Internal Revenue Code; and

(iv) determination of the credit in the case of short taxable years.

(f) (1) The Department and the Comptroller jointly shall adopt regulations to prescribe standards for determining when research or development is considered conducted in the State for purposes of determining the credit under this section.

(2) In adopting regulations under this subsection, the Department and the Comptroller may consider:

(i) the location where services are performed;

(ii) the residence or business location of the person or persons performing services;

(iii) the location where supplies used in research and development are consumed; and

(iv) any other factors that the Department determines are relevant for the determination.

(g) The credit under this section does not apply to any qualified research and development expenses paid or incurred after December 31, 2016.

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